

REMARKS

The claims remaining in the present application are Claims 1-25. Claims 1-25 are rejected. Claims 10, 11, 13 and 17-23 are amended. No new matter has been added.

CLAIM OBJECTIONS

Claim 10 is objected to because of an informality. Applicants respectfully submit that the appropriate correction has been made to Claim 10.

CLAIM REJECTIONS - 35 U.S.C. §102(e)

Claims 1-5, 10, 11, 13, 15, 16 and 19-25 are rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 6,920,112 by McCloghrie et al., hereinafter referred to as the "McCloghrie" reference. Applicants have reviewed the cited reference and respectfully submit that the present invention as recited in Claims 1-5, 10, 11, 13, 15, 16 and 19-25 is not anticipated by McCloghrie for the following rationale.

Applicants respectfully direct the Examiner to independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

A network device comprising:

a processor;

an input interface for receiving a plurality of packets coupled to said processor, said input interface comprising at least one input port wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor;

an output interface for transmitting a plurality of packets coupled to said processor, said output interface comprising at least

one output port wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to said processor; and
a switching fabric coupled to said input interface and said output interface, said switching fabric configured to transmit a packet between said input interface and said output interface

Independent Claims 10, 19 and 23 recite similar limitations. Claims 2-5 that depend from independent Claim 1, Claims 11, 13, 15 and 16 that depend from independent Claim 10, Claims 20-22 that depend from independent Claim 19, and Claims 24 and 25 that depend from independent Claim 23 provide further recitations of the features of the present invention.

According to the Federal Circuit, “[a]nticipation requires the disclosure in a single prior art reference of each claim under consideration” (*W.L. Gore & Assocs. v. Garlock Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983); see also MPEP 2131). However, it is not sufficient that the reference recite all the claimed elements. As stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention “arranged as in the claim” (emphasis added; *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984); see also *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); see also MPEP 2131). In other words “[t]he identical invention must be shown in as complete detail as is contained in the ...claim” (emphasis added; *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); see also MPEP 2131).

McCloghrie and the claimed invention are very different. Applicants understand McCloghrie to teach a traffic management element that is coupled to a switch. In particular, McCloghrie teaches that the traffic management element

is a separate device from the switch, and is coupled to the input and output ports of the switch.

With reference to Figure 1 of McCloghrie, system 100 for collecting information about a packet router or packet switch 110 is shown (col. 3, lines 18-21). Traffic management element 120 is coupled to at least one input interface 111 or output interface 112. Applicants respectfully assert that traffic management element 120 is a separate device from packet switch 110. In particular, “the traffic management element 120 can be distributed within a plurality of devices, such that sampling of packets 113 occurs at the input interfaces 111 or output interfaces 112, while counting and analysis occur at another logical location” (col. 3, lines 42-46). Furthermore, with reference to Figure 2 of McCloghrie, the adaptive sampling controller 240 of traffic management element 120 receives the packets sampled at packet switch 110.

In contrast, the claimed embodiments recite a network device comprising a processor, an input interface, an output interface, and a switching fabric. Moreover, the claimed embodiments recite “wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor” and “wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to said processor.”

Therefore, Applicants respectfully assert that nowhere does McCloghrie teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1, 10, 19 and 23, that these claims overcome the

rejection under 35 U.S.C. § 102(e), and are thus in a condition for allowance. Applicants respectfully submit that McCloghrie also does not teach or suggest the additional claimed features of the present invention as recited in Claims 2-5 that depend from independent Claim 1, Claims 11, 13, 15 and 16 that depend from independent Claim 10, Claims 20-22 that depend from independent Claim 19, and Claims 24 and 25 that depend from independent Claim 23. Therefore, Applicants respectfully submit that Claims 2-5, 11, 13, 15, 16, 20-22, 24 and 25 also overcome the rejection under 35 U.S.C. § 102(e), and are in a condition for allowance as being dependent on allowable base claims.

CLAIM REJECTIONS - 35 U.S.C. §103(a)

Claims 8, 9, 12 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over McCloghrie in view of U.S. Patent No. 6,442,585 by Dean et al., hereinafter referred to as the "Dean" reference. Claims 8 and 9 are dependent on independent Claim 1 and Claims 12 and 14 are dependent on independent Claim 10. Applicants have reviewed the cited references and respectfully submit that the present invention as recited in Claims 8, 9, 12 and 14 is not unpatentable over McCloghrie in view of Dean for the following rationale.

As described above, McCloghrie and the claimed invention are very different. Applicants understand McCloghrie to teach a traffic management element that is coupled to a switch. In particular, McCloghrie teaches that the traffic management element is a separate device from the switch, and is coupled to the input and output ports of the switch. In particular, "the traffic management element 120 can be distributed within a plurality of devices, such that sampling of packets 113 occurs at the input interfaces 111 or output interfaces 112, while

counting and analysis occur at another logical location” (col. 3, lines 42-46). With reference to Figures 1 and 2 of McCloghrie, the adaptive sampling controller 240 of traffic management element 120 receives the packets sampled at packet switch 110.

In contrast, the claimed embodiments recite a network device comprising a processor, an input interface, an output interface, and a switching fabric. Moreover, the claimed embodiments recite “wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor” and “wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to said processor.”

Applicants respectfully assert that McCloghrie does not teach, describe or suggest a network device comprising a processor, an input interface, an output interface, and a switching fabric, “wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor” and “wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to said processor.” Moreover, by teaching a separate traffic management element that is coupled to a switch, and wherein the traffic management element includes an adaptive sampling controller for receiving packets sampled at the packet switch, Applicants respectfully assert that McCloghrie teaches away from the invention as claimed.

Moreover, the combination of McCloghrie and Dean fails to teach or suggest this claim limitation because Dean does not overcome the shortcomings of McCloghrie. Applicants understand Dean to teach a method for scheduling contexts based on statistics of memory system interactions in a computer system. In particular, Applicants respectfully assert that Dean does not teach, describe or suggest a network device comprising a processor, an input interface, an output interface, and a switching fabric, “wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor” and “wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to said processor.” Therefore, Applicants respectfully assert that Dean does not teach, disclose, or the claimed embodiments.

Therefore, Applicants respectfully assert that nowhere does the combination of McCloghrie in view of Dean teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1 and 10, that these claims overcome the rejection under 35 U.S.C. § 103(a), and are thus in a condition for allowance. Applicants respectfully submit the combination of McCloghrie in view of Dean also does not teach or suggest the additional claimed features of the present invention as recited in Claims 8 and 9 that depend from independent Claim 1 and Claims 12 and 14 that depend from independent Claim 10. Therefore, Applicant respectfully submits that Claims 8, 9, 12 and 14 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on allowable base claims.

Claims 6, 7, 17 and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over McCloghrie in view of U.S. Patent No. 6,658,006 by Chen et al., hereinafter referred to as the "Dean" reference. Claims 6 and 7 are dependent on independent Claim 1 and Claims 17 and 18 are dependent on independent Claim 10. Applicants have reviewed the cited references and respectfully submit that the present invention as recited in Claims 6, 7, 17 and 18 is not unpatentable over McCloghrie in view of Chen for the following rationale.

As described above, McCloghrie and the claimed invention are very different. Applicants understand McCloghrie to teach a traffic management element that is coupled to a switch. In particular, McCloghrie teaches that the traffic management element is a separate device from the switch, and is coupled to the input and output ports of the switch. In particular, "the traffic management element 120 can be distributed within a plurality of devices, such that sampling of packets 113 occurs at the input interfaces 111 or output interfaces 112, while counting and analysis occur at another logical location" (col. 3, lines 42-46). With reference to Figures 1 and 2 of McCloghrie, the adaptive sampling controller 240 of traffic management element 120 receives the packets sampled at packet switch 110.

In contrast, the claimed embodiments recite a network device comprising a processor, an input interface, an output interface, and a switching fabric. Moreover, the claimed embodiments recite "wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor" and "wherein at least one said output port is configured

to sample at least one output packet and transmit a sampled output packet to said processor.”

Applicants respectfully assert that McCloghrie does not teach, describe or suggest a network device comprising a processor, an input interface, an output interface, and a switching fabric, “wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor” and “wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to said processor.” Moreover, by teaching a separate traffic management element that is coupled to a switch, and wherein the traffic management element includes an adaptive sampling controller for receiving packets sampled at the packet switch, Applicants respectfully assert that McCloghrie teaches away from the invention as claimed.

Moreover, the combination of McCloghrie and Chen fails to teach or suggest this claim limitation because Chen does not overcome the shortcomings of McCloghrie. Applicants understand Chen to teach a system and method for communicating data using modified header bits to identify a port. In particular, Applicants respectfully assert that Chen does not teach, describe or suggest a network device comprising a processor, an input interface, an output interface, and a switching fabric, “wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor” and “wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to said processor.” Therefore,

Applicants respectfully assert that Chen does not teach, disclose, or the claimed embodiments.

Therefore, Applicants respectfully assert that nowhere does the combination of McCloghrie in view of Chen teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1 and 10, that these claims overcome the rejection under 35 U.S.C. § 103(a), and are thus in a condition for allowance. Applicants respectfully submit the combination of McCloghrie in view of Chen also does not teach or suggest the additional claimed features of the present invention as recited in Claims 6 and 7 that depend from independent Claim 1 and Claims 17 and 18 that depend from independent Claim 10. Therefore, Applicant respectfully submits that Claims 6, 7, 17 and 18 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on allowable base claims.

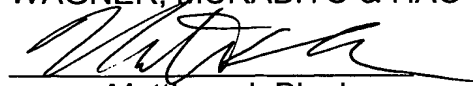
CONCLUSION

In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the arguments and amendments presented above, it is respectfully submitted that Claims 1-25 overcome the rejections of record. Therefore, allowance of Claims 1-25 is respectfully solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below listed telephone number.

Dated: 3 Mar, 2006

Respectfully submitted,
WAGNER, MURABITO & HAO LLP



Matthew J. Blecher
Registration No. 46,558

Address:

WAGNER, MURABITO & HAO LLP
Two North Market Street
Third Floor
San Jose, California 95113

Telephone:

(408) 938-9060 Voice
(408) 938-9069 Facsimile